

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE

**SPIRIT AND TRUTH FAMILY
WORSHIP CENTER, INC.**

DEBTOR

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**CASE NO. 09-33890
(Chapter 11)**

**DEBTOR'S OBJECTION TO FOUNDATION CAPITAL RESOURCES, INC.
PROOF OF CLAIM, CLAIM NO. 1**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU, IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Comes now **SPIRIT AND TRUTH FAMILY WORSHIP CENTER, INC.**, Debtor herein, and files this Objection to the Proof of Claim, Claim No. 1, filed by Foundation Capital Resources, Inc.'s on June 19, 2009 and would respectfully show unto the Court as follows:

1. On February 13, 2006, a Construction Loan Agreement was made and entered into

by and between Foundation Capital Resources, Inc., a Georgia Corporation and Spirit & Truth Family Worship Center, a Texas non-profit Corporation.

2. On June 1, 2009, the Debtor filed for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code.

3. On June 19, 2009, Foundation Capital Resources, Inc. filed its claim with the Bankruptcy Court, Claim No. 1, in the amount of \$2,242,601.18. A true and correct copy of the Proof of Claim is attached hereto as Exhibit "A" and incorporated herein.

4. On September 9, 2009, a Plan of Reorganization was filed in this matter. Subsequently, on November 3, 2009 and November 24, 2009, with a Non-Technical Modification filed on January 10, 2010, was filed with the Court. Same was transmitted to all creditors and parties in interest entitled to receive notice.

5. On or about November 16, 2009, Foundation Capital Resources, Inc. filed a Motion for Relief from Stay (See Docket No. 27). On December 16, 2009, a preliminary hearing was conducted before this Court. Craig Cowgill and Michael J. Smith appeared and agreed to a final hearing set for January 13, 2010 at 11:00 A.M.

6. On January 6, 2010, a hearing was conducted on the Debtor's Amended Disclosure Statement. No objections was filed. Subsequently, on January 9, 2010, an Order Approving Disclosure Statement and Setting Hearing on Confirmation of Plan was entered.

7. On January 12, 2010, the Debtor filed a Non-Technical Modification to Second Amended Plan. (See Docket No. 41)

8. On January 14, 2010, a final hearing was conducted on Foundation Capital Resources, Inc.'s Motion for Relief from Stay. Upon conclusion of the hearing, the Court took the matter under advisement. On January 22, 2010, a Memorandum Opinion and a Judgment

was entered in favor of Foundation Capital Resources, Inc. Foundation Capital Resources, Inc. was granted relief from the stay and was allowed to foreclose and sale the property that was subject to its secured claim.

9. Under the Debtor's modification of the plan, in the event that Foundation Capital Resources, Inc. was granted relief from the stay, the real estate would be foreclosed on and sold in *complete satisfaction* of Foundation Capital Resources, Inc.'s claim.

10. On March 24, 2010, the Order Confirming Debtor's Chapter 11 Plan was approved (See Docket No. 57).

11. The undersigned contact Foundation Capital Resources, Inc.'s counsel in this bankruptcy matter, Michael Smith, and inquired about withdrawing Claim No. 1 filed by Foundation Capital Resources, Inc. As of this date, no withdraw has been filed in this matter.

12. Pursuant to the terms of the Approved Chapter 11 Plan, Foundation Capital Resources, Inc. is no longer eligible to be a creditors of this estate.

13. Based upon the confirmed plan, the Debtor disputes the claim, Claim No. 1 in the amount of \$2,242,601.18, in its entirety. *United Student Aid Funds, Inc. V. Espinosa*, 08-1134, Supreme Court of the United States. See *Nobelman v. American Savings Bank*, 508 U.S. 324,327 (1993); See *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314.

14. Spirit and Truth Worship Center, Inc. further believes that the claim of Foundation Capital Resources, Inc. should be DISALLOWED.

WHEREFORE, PREMISES CONSIDERED, Debtor, SPIRIT AND TRUTH FAMILY WORSHIP CENTER, INC. respectfully objects to Claim No. 1 of FOUNDATION CAPITAL RESOURCES, INC. and for such other and further relief, at law and in equity, as this Court deems just.

Respectfully submitted this 5th day of May, 2010.

By: J. CRAIG COWGILL & ASSOCIATES, P.C.
/s/J. Craig Cowgill
J. Craig Cowgill
State Bar No. 04929000
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Houston, Texas 77007
Telephone: 713/956-0254
Telecopier: 713/956-6284
Attorneys for Debtors

CERTIFICATE OF CONFERENCE

I certify that I conducted a telephone conversation with Michael J. Smith in an attempt to resolve the issues of this pleading but as of this date no resolution has been reached.

/s/J. Craig Cowgill
J. Craig Cowgill

VERIFICATION OF TRANSMITTAL TO THE U.S. TRUSTEE

The undersigned, an attorney, under the penalties of perjury, hereby certifies that a true and correct copy of the above and foregoing instrument has been transmitted to the United States Trustee, via ECF, if available or by fax at **713/718-4670** on the 5th day of May, 2010.

/s/ J. Craig Cowgill
J. Craig Cowgill

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument has been served upon Michael J. Smith, attorney for Foundation Capital Resources, Inc. and parties in interest entitled to receive notice via electronically, on this 5th day of May, 2010.

/s/ J. Craig Cowgill
J. Craig Cowgill